Assembly Bill No. 2202

CHAPTER 261

An act to add Sections 20221.5 and 20571.5 to the Government Code, relating to public employees' retirement.

[Approved by Governor August 4, 2008. Filed with Secretary of State August 4, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2202, Caballero. Public Employees' Retirement System.

(1) The Public Employees' Retirement Law provides that public employees become members of the Public Employees' Retirement System (PERS) upon entry into employment, with specified exceptions. Existing law excludes from membership in PERS part-time employees unless certain requirements are met. Existing law requires state agencies, school employers, and contracting agencies of PERS to provide specified information to the Board of Administration of PERS regarding employees who are members of the system.

This bill would require every state agency, school employer, or contracting agency of PERS to provide information to the board, upon request, regarding its employees who are not enrolled as members of PERS. The bill would require that this information be treated as confidential, as specified.

(2) Existing law permits any public agency to participate in and make all or part of its employee members of PERS by contract, except when the agency, within the last 3 years, has terminated a previous contract. Existing law permits a contracting agency to terminate, as specified, a contract that has been in effect for at least 5 years.

This bill would permit the Board of Administration of PERS to enter into an agreement with the governing body of a contracting agency for the termination of a portion of the contract with respect to a member classification with no active employees. The bill would require that the agreement be reflected in an amendment to the agency's contract, and would permit the board to require that the portion of the contract being terminated be in effect for at least 5 years. The bill would require the board to take certain actions upon the termination of the contract with respect to holding contributions, merging plan assets and liabilities, and entering into an agreement with the agency regarding the calculation of final compensation for its employees and the funding of benefits.

The people of the State of California do enact as follows:

SECTION 1. Section 20221.5 is added to the Government Code, to read:

20221.5. Every state agency, school employer, or contracting agency shall, upon request from the board, provide information on its employees who are not enrolled as members of the system to assist the board to carry out the administration of the system.

(a) The information provided under this section shall be submitted in the manner and under the conditions prescribed by the board.

(b) Nothing in this section shall be construed to supersede or diminish an employer's responsibility to determine eligibility or to enroll its qualifying employees in membership.

(c) Any information obtained under this section shall be treated as confidential by the system, under the same terms and conditions that apply to information that is confidential pursuant to Section 20230.

SEC. 2. Section 20571.5 is added to the Government Code, to read:

20571.5. Notwithstanding any other provision of this article, the board may enter into an agreement with the governing body of a contracting agency for the termination of a portion of the contract with respect to a member classification with no active employees. The terms of the agreement shall be reflected in an amendment to the agency's contract with the board. The board may require that the portion of the contract being terminated be in effect for at least five years. Upon the termination of a portion of a contract, the board shall do the following:

(a) Hold for the benefit of the members of this system who are credited with service rendered as employees of the contracting agency, and for the benefit of beneficiaries of this system who are entitled to receive benefits on account of that service, the portion of the accumulated contributions then held by this system and credited to, or as having been made by, the agency. This portion of the accumulated contributions shall not exceed the difference between the following:

(1) An amount actuarially equivalent, including contingencies for mortality fluctuations, as determined by the actuary and approved by the board, to the amount this system is obligated to pay after the effective date of termination to, or on account of, persons who are or have been employed by, and on account of service rendered by them to, the agency.

(2) The contributions, with credited interest thereon, then held by this system as having been made by those persons as employees of the agency.

(b) Merge all plan assets and liabilities into the terminated agency pool to provide exclusively for the payment of benefits to members of these plans.

(1) If the sum of the accumulated contributions is less than the actuarial equivalent specified in paragraph (1) of subdivision (a), the agency shall contribute to the system, under the terms fixed by the board, an amount equal to the difference between the amount specified in paragraph (1) of subdivision (a) and the accumulated contributions.

(2) If the sum of accumulated contributions exceeds the amount specified in paragraph (1) of subdivision (a), the excess contributions shall be merged into the active plan or plans of the contracting agency, as determined by the chief actuary.

(c) Enter into an agreement with the governing body of a contracting agency terminating a portion of a contract in order to ensure both of the following:

(1) The final compensation used in the calculation of benefits of its employees is calculated in the same manner as the benefits of employees of agencies that are not terminating, regardless of whether the employees of the terminating agency retire directly from employment with the contracting agency terminating a portion of a contract or continue in other public service.

(2) Related necessary adjustments in the employer's contribution rate are made, from time to time, by the board prior to the date of termination to ensure adequate funding of benefits or the governing body of the contracting agency terminating a portion of a contract and the board agree to another actuarially sound payment technique, including a lump-sum payment at termination.

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